

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

WILLIE JAMES McGRAW,

Plaintiff,

v.

Case No. 2:06-cv-165  
HON. ROBERT HOLMES BELL

K. HILL, et al.,

Defendants.

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**OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S**  
**REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action. The Report and Recommendation was duly served on the parties. The Court has received objections from the defendants. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

It is defendants' burden when raising the issue of failure to exhaust to establish that plaintiff failed to exhaust his grievance remedies. Defendants concede in their objections to the Report and Recommendation that plaintiff may have exhausted his grievance remedies. The burden is solely on defendants to show that plaintiff failed to exhaust. Defendants have not met that burden.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge is approved and adopted as the opinion of the court.

IT IS FURTHER ORDERED that defendants' motion to dismiss (Docket #14) is granted in part and denied in part. Defendant Arkins only is dismissed from this action.

FINALLY, Plaintiff's motion for the court to reissue court order and motions (Docket #34) is DENIED. It does not appear that plaintiff is in need of any specific order or motion.

Date: August 20, 2007

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE